this country with the issuance of false stock certificates. *New York, N. H. & H. R. R. v. Schuyler* (1865) 34 N. Y. 30; *Fifth Ave. Bk. v. 42nd Street and Grand Street Ferry Co.* (1893) 137 N. Y. 231, 33 N. E. 378. Or of false bills of lading. Uniform Bills of Lading Act, sec. 23; Williston, *Sales*, sec. 419; *Bank of Batavia v. New York, L. E. & W. R. R.* (1887) 106 N. Y. 196; (1907) 17 YALE LAW JOURNAL, 400; *contra, Grant v. Norway* (1851) 10 C. B. 665; *National Bank of Commerce v. Chicago, B. & N. R.* (1890) 44 Minn. 224, 46 N. W. 342, 560. And to this rule defamation makes no exception; a corporation may be liable even for slander by its agents. See (1919) 28 YALE LAW JOURNAL, 702. On the measure of punitive damages therefor, see (1918) 27 *ibid.* 701. Nor is the imposition of punitive damages, for an agent's act, without support in the books. They are in the nature of a private penalty; but an agent's unauthorized act may even subject the corporation to a criminal penalty, of fine or forfeiture. See (1919) 28 *ibid.* 700; *cf.* also *supra, sub. tit.* CONSTITUTIONAL LAW—DUE PROCESS. And it may be that a stricter rule should be applied to public service than to private corporations. *Cf. Cohen v. Dry Dock & C. R. R.* (1877) 69 N. Y. 170.

QUASI-CONTRACTS—VOLUNTARY PERFORMANCE OF ANOTHER'S STATUTORY DUTY.—Statutes provided that schoolboards should arrange transportation to and from schools for children who lived beyond a certain distance. The plaintiff resided beyond this distance, but no transportation had been provided. He sued for the value of his services in daily conveying his children to school. *Held,* that he could recover. *Eastgate v. Osayo School District* (1919, N. D.) 171 N. W. 96.

It has seemed well settled that a plaintiff who has done that which is another's statutory duty cannot recover from the latter the value of the services rendered, if he has not first, without avail, demanded performance of the duty by the defendant. *Hamilton County v. Meyers* (1888) 23 Neb. 718, 37 N. W. 623 (medical aid to pauper); *Patrick v. Town of Baldwin* (1901) 109 Wis. 342, 85 N. W. 274 (same). And it has been held that even though notice was given no recovery could be had. *Macclesfield Corporation v. Great Central Ry.* (C. A.) [1911] 2 K. B. 528 (repairs on bridge). But the better authority allows recovery in that case. *Trustees of Cincinnati v. Ogden* (1831) 5 Ohio, 23 (support of pauper); *Randolph v. Town of Greenwood* (1905) 122 Ill. App. 231 (same). And an emergency which makes the giving of notice impracticable, dispenses therewith. *County of Madison v. Haskill* (1895) 63 Ill. App. 657 (medical services to pauper); *Robbins v. Town of Homer* (1905) 95 Minn. 201, 103 N. W. 1023 (same). In the principal case there was no emergency and no notice seems to have been given the school board. The decision, it is submitted, is a result of the combination of a number of circumstances tending toward recovery, no one of which alone would seem to justify it. A statute made education compulsory; statutes made it the mandatory duty of the board to apprise itself of what children were entitled to transportation, and to provide the same; there appears to have been in fact no transportation which the plaintiff's children might have used, even at some inconvenience; the statutes authorized compensation, where agreed, in lieu of transportation, and even set out a schedule of rates; and the acts—as promoting public education—were of benefit to the community, and were such as the plaintiff was under a moral duty to perform. The absence of other facilities distinguishes the case from those denying recovery for aid to paupers; for in those cases poor-houses were available. See *Hamilton County v. Meyers* and *Patrick v. Town of Baldwin, supra.* And it is suggested that where the combination exists, of benefit to the community and strong moral duty in the plaintiff, it should and will incline the

courts to allow recovery more readily. Hence the principal case seems sound in result. It may be doubted, however, whether the English courts would not on the same facts deny recovery, on the ground that a volunteer, even though not an officious intermeddler, cannot recover. See *Macclesfield Corporation v. Great Central Ry., supra.*

STATUTORY CONSTRUCTION—VACCINATION—EXCLUSION FROM SCHOOL.—The compiled laws of North Dakota provide that: it shall be the duty of principals, teachers, parents, etc., to refuse to permit any child having any contagious or infectious disease, including smallpox, to attend a public or private school; each parent or guardian *shall* cause any minor in his care to be vaccinated; any person not complying with this provision *shall* be guilty of a misdemeanor and punishable by a fine; it shall be the duty of the state board of health to make and enforce all *needful* rules and regulations for the *prevention* and cure, and to prevent the spread of any contagious, infectious or malarial diseases among persons and domestic animals; that all school boards shall coöperate with the state board of health. The state board of health promulgated an order requiring every child to present satisfactory evidence of vaccination before being admitted to school. The defendant, a local school board, adopted the order of the state board of health and excluded the plaintiff, a minor, from school for non-compliance therewith. There was no epidemic of smallpox in the neighborhood and no apprehension of such. A further statute made the attendance of children of the age of the plaintiff compulsory, and penalized the parents for failure to comply with same. The plaintiff applied for a writ of *mandamus* to compel the board to admit him to school. *Held,* (Cole, J., *dissenting*) that the writ should be granted. *Rhea v. Board of Education, etc.* (1919, N. D.) 171 N. W. 103.

The court reasoned that the failure to include non-vaccination in the statute which made it the duty of teachers, etc., to refuse admission to those children having any contagious or infectious disease, etc., indicated that the claimed power was not intended to be granted either to the state board of health or the local board of education, on the ground that *expressio unius est exclusio alterius;* that a board of health which possesses merely *general* powers for the *prevention* and spread of contagious diseases, cannot, in the absence of reasonable apprehension of danger, promulgate and enforce rules which seriously cut into the individual's liberty and whose preventive efficacy is doubtful to the court. The power of the legislature by *express* provision to authorize administrative boards to *require* vaccination and penalize non-compliance has been acknowledged in nearly every state. *Herbert v. School Board* (1916) 197 Ala. 617, 73 So. 321; *Blue v. Beach* (1900) 155 Ind. 121, 56 N. E. 89; *State v. Hay* (1900) 126 N. C. 999, 35 S. E. 459; *Morris v. City of Columbus* (1897) 102 Ga. 792, 30 S. E. 850. Nor is it necessary for such boards, possessing an express power, to wait until a threatened epidemic before prohibiting school attendance of children not complying with their order. *State ex rel. Milhoof v. Board of Education* (1907) 76 Oh. St. 297, 81 N. E. 568; *Re Rebenack* (1895) 62 Mo. App. 8; *cf. Bissel v. Davison* (1894) 65 Conn. 183, 32 Atl. 348. It has been denied, however, that a board possessing express power only to enforce regulations "necessary to safeguard the public health," and to "prevent the spread of disease," has the power to exclude children when there is no epidemic apprehended. *Jenkins v. Board of Health* (1908) 234 Ill. 422, 84 N. E. 1046, 17 L. R. A. (N. S.) 709; *Potts v Breen* (1897) 167 Ill. 67, 47 N. E. 81; *Adams v. Burdge* (1897) 95 Wis. 390, 70 N. W. 347; *cf. State ex rel. Cox v. Board of Education* (1900) 21 Utah, 401, 60 Pac. 1013. Whether such *general* power of the board includes the specific power to require vaccination, etc., in the absence of an epidemic, is obviously in any given case a question of legislative intent. In